

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Michael D. Greene,

Case No. 3:18 CV 1507

Plaintiff,

ORDER ADOPTING  
REPORT AND RECOMMENDATION

-vs-

Commissioner of Social Security,

JUDGE JACK ZOUHARY

Defendant.

Plaintiff Michael Greene seeks disability-related Social Security benefits. He applied for benefits in 2014 (Doc. 10 at 206, 213), but a state agency twice denied the applications (*id.* at 148, 151, 156, 159). Greene then appealed, unsuccessfully, to an Administrative Law Judge (ALJ) (*id.* at 33–34). Another adjudicator -- the Social Security Appeals Council -- declined to review the ALJ's decision (*id.* at 6). Greene now asks this Court to award him benefits or to order that the ALJ reconsider his applications (Doc. 1 at 2).

The matter was automatically referred to Magistrate Judge James Knepp under Local Civil Rule 72.2(b)(1) (Non-Doc. Entry 7/5/2018). In a Report and Recommendation (R&R), Judge Knepp affirmed the denial of Greene's applications (Doc. 16 at 1). Greene objects (Doc. 18-1); Defendant Commissioner of Social Security responds (Doc. 19). This Court reviews the Objection de novo. *See* 28 U.S.C. § 636(b).

Greene claims entitlement to benefits based on mental and physical impairments (Doc. 10 at 241, 249). His Objection concerns the mental impairments. On step two of the required five-step analysis, *see* 20 C.F.R. § 404.1520(a)(4), the ALJ determined that the mental impairments are not

severe (Doc. 10 at 26). Judge Knepp concluded that this determination is not reversible error (Doc. 16 at 10). Greene insists it is (Doc. 18-1 at 2, 7), but he is mistaken. Even if the mental impairments are severe, the ALJ's erroneous determination to the contrary is harmless because he (1) found other severe impairments on step two (Doc. 10 at 24) and (2) considered the mental impairments when defining Greene's "residual functional capacity" on step four (*id.* at 26, 30, 32). *See Pompa v. Comm'r of Soc. Sec.*, 73 F. App'x 801, 803 (6th Cir. 2003).

The Objection (Doc. 18-1) is overruled, the R&R (Doc. 16) is adopted, and Greene's Complaint (Doc. 1) is dismissed.

IT IS SO ORDERED.

s/ Jack Zouhary  
JACK ZOUHARY  
U. S. DISTRICT JUDGE

September 20, 2019